

August 14, 2019

Federal Bureau of Investigation  
Attn: FOI/PA Request  
Record/Information Dissemination Section  
170 Marcel Drive  
Winchester, VA 22602-4843  
(540) 868-4391/4997 (fax)

Re: FOIA Request for August 2018 Powerpoint Presentation and Related Information

Dear sir or madam:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, we hereby request that your office produce the following records within 20 business days:

1. A copy of all slides from any powerpoint presentation given to members of the Senior Executive Service (“SES”) in August 2018 that made specific reference to Peter Strzok or Lisa Page, including but not limited to those entitled “FBI Fundamentals: Doing the Right Thing the Right Way” or anything similar, and those presented by personnel from the FBI’s Office of Professional Responsibility (“OPR”) or Office of Integrity and Compliance (“OIC”) ;
2. Any audio or video recording of any presentations identified in paragraph 1;
3. Any handouts, readings, or other written materials disseminated electronically or in hard copy in association with any presentations identified in paragraph 1; and
4. Any e-mail communications discussing the development, review, and clearance of any powerpoint presentations identified in paragraph 1.

We do not believe this request falls within the scope of any existing FOIA exemptions. *See Department of Air Force v. Rose*, 425 U.S. 352 (1976).

We also request any records describing the processing of this request, including records sufficient to identify search terms used and locations and custodians searched and any tracking sheets used to track the processing of this request. If your agency uses FOIA questionnaires or certifications completed by individual custodians or components to determine whether they possess responsive materials or to describe how they conducted searches, we also request any such records prepared in connection with the processing of this request.

If you make a determination that any responsive record, or any segment within a record is exempt from disclosure, we ask that you provide an index of those records at the time you

transmit all other responsive records. In the index, please include a description of the record and the reason for exclusion with respect to each individual exempt record or exempt portion of a record, as provided by *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973), *cert. denied*, 415 U.S. 977 (1974). When you deem a portion of a record exempt, we ask that the remainder of the record to be provided, as required by 5 U.S.C. §§ 552(a)(8)(A)(ii) & 552(b).

### **FEE WAIVER**

FOIA provides that any fees associated with a request are waived if “disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” 5 U.S.C. § 552(a)(4)(A)(iii).

We are the editor-in-chief and senior editor for *Lawfare*, an online publication dedicated to informing public understanding on operations and activities of the government. Lawfare is published by The Lawfare Institute, a 501(c)(3) not-for-profit educational organization, and in cooperation with The Brookings Institution, a 501(c)(3) nonprofit public policy organization. This request is submitted in connection with *Lawfare*’s mission to publish information that is likely to contribute significantly to the public understanding of federal agency activities related to law and national security. Current and former FBI employees have indicated that a presentation made to members of the FBI’s SES in August 2018 misrepresented relevant facts relating to Strzok and Page, as well as legal and policy limitations on the political activities of FBI personnel. This request is intended to determine whether these allegations are true.

In addition to satisfying the requirements for a waiver of fees associated with the search and processing of records, we are entitled to a waiver of all fees except “reasonable standard charges for document duplication.” 5 U.S.C. § 552(a)(4)(A)(ii)(II). Federal law mandates that fees be limited to document duplication costs for any requester that qualifies as “a representative of the news media.” *Id.* *Lawfare* is a “news media organization[]” that “gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience.” *Nat’l Sec. Archive v. Dep’t of Defense*, 880 F.2d 1381, 1387 (D.C. Cir. 1989). We intend to give the public access to documents transmitted via FOIA on our website, <https://www.lawfareblog.com>, and to provide information about and analysis of those documents as appropriate.

### **EXPEDITED PROCESSING**

FOIA provides for expedited processing where a requestor “demonstrates a compelling need.” 5 U.S.C. § 552(a)(6)(E)(i). It defines “compelling need” to include situations where a “request [is] made by a person primarily engaged in disseminating information” and there exists

an “urgency to inform the public concerning actual or alleged Federal Government activity.” *Id.* § 552(a)(6)(E)(v).

*Lawfare* is an organization primarily engaged in the dissemination of information. FBI personnel who have been misinformed regarding relevant legal and policy restrictions may be unnecessarily curtailing their valid and permissible political activities. Further, an effort to misrepresent the facts surrounding Strzok and Page may reflect a broader effort to misleadingly characterize that case. In either case, there would be an urgent need to publicly correct these misrepresentations and to inform members of the public of what has occurred so that they may encourage their political representatives to respond accordingly.

\* \* \*

Given the 20-day statutory deadline, we hope to be as helpful as possible in clarifying or answering questions about our request. Please contact us by phone or email if you require any additional information. We appreciate your cooperation, and look forward to hearing from you very soon.

Sincerely,

/s/ Benjamin Wittes

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